



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/825,269	04/03/2001	Renee Frengut	3313/1H343	2080
44538	7590	07/12/2006	EXAMINER	
DANIEL S. POLLEY, P.A. 1215 EAST BROWARD BOULEVARD FORT LAUDERDALE, FL 33301			CHAMPAGNE, DONALD	
			ART UNIT	PAPER NUMBER
			3622	

DATE MAILED: 07/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/825,269

Applicant(s)

FRENGUT ET AL

Examiner

Donald L. Champagne

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Prosecution Re-opened

1. As a result of applicant's appeal brief filed on 20 April 2006, the rejection under 35 U.S.C. 112, first paragraph, has been withdrawn, and the claims rejected with following basis.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In every independent claim, e.g., at line 4 of claim 1, "associating in a computer one or more user profiles with" is indefinite: With what are the user profiles associated? This rejection can be satisfied by amending the subject phrase to read, "associating in a computer one or more user profiles with the respective one or more users, with".
4. Also, in every independent claim, e.g., at line 7 of claim 1, "are aware" should be "is aware".

Claim Rejections - 35 USC § 102 and 35 USC § 103

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 3622

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-3, 6-10, 12-23 and 27-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Gerace (US005848396A).
8. Gerace teaches (independent claim 1) a method for generating a customized *Home Page* (col. 4 line 3), which reads on a customized interface, comprising the steps of: associating in a computer one or more ads with respective ad profiles (col. 3 lines 4-10); associating in a computer one or more user profiles with the respective one or more users, (col. 5 line 63 to col. 6 line 5), with each user profile created from user responses to a gate information (col. 4 lines 12-23), which reads on created from information inputted by a corresponding user and transmitted to the computer, wherein each user personally assists in the creation of his or her user profile by knowingly inputting the information (making *user selections*, col. 4 lines 7-11) and are (is) aware that the information will be used to create a customized interface/*Home Page* (because said customized interface/*Home Page* appears in response to the user's selections and expressed preferences, col. 4 lines 23-28), determining matching ad profiles by comparing the ad profiles with user profiles for matches (col. 2 lines 31-34 and col. 35 lines 64-67), and selectively including in the interface (page) of a user at least one of the one or more ads associated with the ad profiles matching a user profile associated with the user (col. 2 lines 24-29).
9. Gerace also teaches: (independent claims 6 and 30) storing statistical data determined according to the matches (col. 2 lines 35-42), selecting the ad(s) according to said statistical data and an anonymous user (col. 2 lines 43-53 and col. 32 lines 54-56); (independent claim 9) charging the advertiser in accordance with the matches (col. 12 lines 7-21); (independent claims 27 and 16) providing the page/interface to the user, in response to a user action (logging on to *program 31*, col. 4 lines 1-2 and 25-27); and (independent claim 12) formatting the page/interface in accordance with the user profile (col. 2 lines 16-23).
10. Gerace also teaches at the citations given above claims 2, 3, 17 and 29 (inherently, because no special meaning is disclosed for "consistent").
11. Gerace also teaches at the citations given above claims 7, 8, 10 (where "number of users having matching user profiles" reads on *number of times the ad is presented to and viewed*

Art Unit: 3622

by users), 18-23 and 28 (where the ad profile parameters themselves read on "information about a targeted audience for the ad").

12. Gerace also teaches claim 15, because the *Page Display Object 35c* defines page outlines (col. 7 lines 39-40), which read on a page "framework", and the user adds said outline/framework to the user profile by selecting such a page for viewing (col. 7 lines 53-57). Accordingly, Gerace also teaches claims 13 and 14 because these outlines (Appendix I beginning in col. 23) fully define page outlines including spaces.
13. Claims 11 and 24-26 are rejected under 35 U.S.C. 103(a) as being obvious over Gerace.
14. Gerace does not teach (claims 11 and 24) charging the advertiser based on the amount of ad space available. Because both ad cost and demand from advertisers increases with ad size, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to add to the teachings of Gerace that advertisers are charged based on the amount of ad space available. Gerace does teach the added limitations of claim 25 (col. 2 lines 16-23).
15. Gerace does not teach (claim 26) charging the advertiser based on when the user receives the ad. Because the value to the advertiser depends on the timing of some ads (e.g., Christmas sale ads are valuable only before Christmas), it would have been obvious to one of ordinary skill in the art, at the time of the invention, to add to the teachings of Gerace that advertisers be charged based on when the user receives the ad.
16. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being obvious over Gerace in view of Tuzhilin (US006236978B1). Gerace does not teach that the user profile defines one or more advertisers or favorite products. Tuzhilin teaches (col. 11 lines 21-23) that the user profile defines one or more favorite brands, which reads on advertisers or favorite products. Because Tuzhilin teaches the construction of dynamic profiles for large groups of users (col. 1 line 52 to col. 2 line 20), it would have been obvious to one of ordinary skill in the art, at the time of the invention, to add to the teachings of Tuzhilin to those of Gerace.

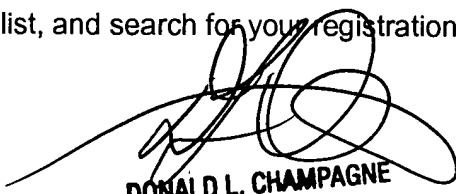
Conclusion

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald L Champagne whose telephone number is 571-272-6717. The

Art Unit: 3622

examiner can normally be reached from 8:30 AM to 7 PM ET, Monday to Thursday. The examiner can also be contacted by e-mail at donald.champagne@uspto.gov, and *informal* fax communications (i.e., communications not to be made of record) may be sent directly to the examiner at 571-273-6717.

18. The examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The fax phone number for all *formal* fax communications is 571-273-8300.
19. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).
20. ABANDONMENT – If examiner cannot by telephone verify applicant's intent to continue prosecution, the application is subject to abandonment six months after mailing of the last Office action. The agent, attorney or applicant point of contact is responsible for assuring that the Office has their telephone number. Agents and attorneys may verify their registration information including telephone number at the Office's web site, www.uspto.gov. At the top of the home page, click on Site Index. Then click on Agent & Attorney Roster in the alphabetic list, and search for your registration by your name or number.



DONALD L. CHAMPAGNE
PRIMARY EXAMINER

Donald L. Champagne
Primary Examiner
Art Unit 3622

6 July 2006